

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ORACLE AMERICA, INC.,

No. C 10-03561 WHA

Plaintiff,

v.

GOOGLE INC.,

Defendant.

**ORDER DENYING  
LEAVE TO FILE  
MOTION FOR  
SUMMARY JUDGMENT  
ON PATENT MARKING**

Defendant requests leave to file a motion for partial summary judgment on damages based on the patent marking statute, 35 U.S.C. 287 (Dkt. No. 310). Plaintiff opposes defendant's request (Dkt. No. 319). Having considered both submissions, this order finds that defendant's proposed motion would be premature because so many of the asserted claims still remaining in the case will not be tried. Accordingly, the request is **DENIED**. This denial is without prejudice to the same marking arguments being raised at trial.

**IT IS SO ORDERED.**

Dated: August 19, 2011.

  
WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE